

# **EXHIBIT 130**

**Excerpts of the Deposition of  
Michael Mersch  
(Redacted)**

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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CUNG LE; NATHAN QUARRY, JON )  
FITCH, on behalf of )  
themselves and all others )  
similarly situated, )  
                               )  
Plaintiffs,                 )  
                               )  
vs.                         ) Case No.  
                               ) 2:15-cv-01045-RFB-(PAL)  
                               )  
ZUFFA, LLC, d/b/a Ultimate )  
Fighting Championship and )  
UFC,                         )  
                               )  
Defendant.                 )  
\_\_\_\_\_)

C O N F I D E N T I A L  
VIDEOTAPED DEPOSITION OF  
MICHAEL P. MERSCH  
AFTERNOON AND EVENING SESSIONS (PAGES 333 to 496)  
LAS VEGAS, NEVADA  
JULY 14, 2017  
4:43 p.m.

Reported by:  
Jualitta Stewart, CCR No. 807, RPR  
Job No. 51253-B

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1	fighter's side and sometimes it came from the Zuffa 2 side. It just depended on the context, it depended 3 on, you know, a variety of different factors.		
4	MR. CRAMER: All right. I'd like to have 5 the court reporter mark as Mersch Exhibit 25 the 6 next document.		
7	For the record, Mersch Exhibit 25 is a 8 series of e-mails with a Bates range ZFL 2496215 9 through 6216. It's a July 2012 e-mail exchange 10 between Mr. Mersch, Tracy Long, and Joe Silva. 11 (Whereupon, Exhibit 25 was 12 marked for identification.)		
13	BY MR. CRAMER:		
14	<b>Q. Let me know when you've had a chance to 15 review it, and I have some questions about it.</b>		
16	A. Okay.		
8	Q. Well, it was sent from your e-mail 9 address, correct?		
10	A. As I said, I don't have any independent 11 recollection, but I don't dispute that it occurred.		
12	Q. Okay.		
13	A. So.		

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<p>1 it was expressed to me that anybody in the UFC's      2 executive team had any -- felt that the individuals      3 running the Affliction brand of MMA were a threat to      4 the UFC. I don't recall that. And, again, it was      5 ten years ago, apparently. But as I sit here today,      6 I don't have any independent recollection that that      7 occurred.</p> <p>8     <b>Q. Did you, at some point, gain the</b>      9 <b>understanding that either you or someone at Zuffa</b>      10 <b>viewed Affliction at this time as Zuffa's main</b>      11 <b>rival?</b></p> <p>12     A. I never gained that understanding.      13         MR. CRAMER: All right. I'd like to mark      14 as Mersch Exhibit 39 the next document.      15         (Whereupon, Exhibit 39 was      16                 marked for identification.)</p> <p>17         THE WITNESS: To the best of my      18 recollection. So.</p> <p>19 BY MR. CRAMER:</p> <p>20     <b>Q. Mersch Exhibit 39 is a one-page series of</b>      21 <b>e-mails bearing the Bates Number ZFL-2193553. It's</b>      22 <b>a July 24 and 25, 2009 e-mail chain between</b>      23 <b>Mr. Mersch and Kevin Mulvey with a subject</b>      24 <b>"Affliction."</b></p> <p>25         Let me know when you've completed</p>	<p>1     <b>e-mail here, the subject is "Affliction," right?</b>      2         A. Yeah.      3         <b>Q. That's the subject?</b>      4         A. Yes.      5         <b>Q. And Affliction is the company we've just</b>      6 <b>been talking about that was exclusively an apparel</b>      7 <b>company but then at some point in late 2007 or two</b>      8 <b>thousand and -- or early 2008 became an MMA</b>      9 <b>promotion, correct? That's Affliction, correct?</b>      10         A. I'm sorry, can you repeat that, I      11 apologize.      12         <b>Q. That's okay.</b>      13         <b>Affliction is the company that we've just</b>      14 <b>been talking about --</b>      15         A. Yes.      16         <b>Q. -- in the last document --</b>      17         A. Correct.      18         <b>Q. -- that in late 2007 went from being</b>      19 <b>exclusively an apparel company to an apparel company</b>      20 <b>plus an MMA promotion, right?</b>      21         A. Correct.      22         <b>Q. And you say to Mulvey and Ricca in July</b>      23 <b>of 2009, "Our main rival is done."</b>      24         <b>Do you see that?</b>      25         A. H'm-h'm.</p>
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<p>1 reviewing it.      2     A. Okay.      3     <b>Q. So at the bottom of the chain, there's an</b>      4 <b>e-mail from you to Mr. Mulvey and Joe Ricca.</b>      5     A. Ricca.      6     <b>Q. Ricca. Who is Mr. Mulvey?</b>      7     A. Mr. Mulvey and Mr. Ricca worked for a      8 government relations firm out of Boston,      9 Massachusetts called Dewey Square Group.      10     <b>Q. And they were doing business for Zuffa at</b>      11 <b>the time?</b>      12     A. At -- again, to the best of my      13 recollection timing-wise, I'm not a hundred percent      14 sure, but it wouldn't surprise me if during this      15 time -- and for many many years, I worked with      16 Mr. Mulvey and Mr. Ricca to bring MMA legalization      17 to the state of Massachusetts which prior to this      18 time only permitted boxing and did not permit the      19 promotion of live professional mixed martial arts      20 sporting events.      21     <b>Q. So Dewey Square was essentially a</b>      22 <b>lobbyist for Zuffa and the UFC at this time,</b>      23 <b>correct?</b>      24     A. Correct.      25     <b>Q. Okay. And you were -- at the first</b></p>	<p>1     <b>Q. And you --</b>      2     A. Yes.      3     <b>Q. You include a website news article from</b>      4 <b>Sherdog.com. Sherdog.com is an MMA website; isn't</b>      5 <b>that right?</b>      6     A. Correct.      7     <b>Q. And there's a news item entitled,</b>      8 <b>"Affliction Clothing Back in UFC Fold."</b>      9         <b>Do you see that?</b>      10         A. Yes, sir.      11         <b>Q. And the Affliction clothing was back in</b>      12 <b>the UFC fold because Affliction had stopped the MMA</b>      13 <b>promotion business, correct?</b>      14         A. I would assume that that was one of the      15 factors, I don't recall all of the details      16 surrounding why -- what -- what negotiations took      17 place between either Dana, Lorenzo, and -- and --      18 and the people that ran Affliction. But obviously      19 it appears that -- without reading the article, it      20 appears that at some point that that was agreed to.      21         <b>Q. And when you said "our main rival is</b>      22 <b>done," you were referring to Affliction as an MMA</b>      23 <b>promotion no longer being an MMA promotion, correct?</b>      24         A. I spoke with Mr. Mulvey and Mr. Ricca on      25 a fairly regular basis in the -- much of what I was</p>

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<p style="text-align: right;">446</p> <p>1 doing there was keeping them abreast of current 2 events related to the company to make sure that they 3 understood, you know, the business interest of the 4 company that were going on and any major 5 developments that had happened.</p> <p>6 And, again, I may have been referring to 7 that but, again, I certainly can appreciate what 8 context or other circumstances existed at that time 9 or what I may have been speaking with them about in 10 referring to them in that -- in that -- that regard.</p> <p>11 But again, I think the general nature of 12 my e-mail was to pass along that the relationship 13 between Affliction and the UFC had apparently been 14 repaired.</p> <p>15 Q. Affliction didn't go out of business, 16 correct?</p> <p>17 MR. WILLIAMS: Objection to the form of 18 question.</p> <p>19 THE WITNESS: I have no knowledge -- not 20 to the best of my knowledge.</p> <p>21 BY MR. CRAMER:</p> <p>22 Q. They continued to be an apparel company, 23 correct?</p> <p>24 A. To the best of my knowledge.</p> <p>25 Q. Right? Now they were back in the UFC</p>	<p style="text-align: right;">448</p> <p>1 their MMA promotion, looks like the UFC is now going 2 to be able to take all of Affliction's fighters, 3 right?</p> <p>4 A. Well, apparently, again, I don't have any 5 independent recollection regarding what was 6 happening at this particular time, but apparently 7 the inference that I would draw from reading this 8 e-mail would be that the UFC had entered into an 9 agreement to purchase some or all of the assets of 10 Affliction's MMA-related assets.</p> <p>11 Q. And then you say, [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p>
<p style="text-align: right;">447</p> <p>1 fold, that's what the article reports, correct?</p> <p>2 A. As of the date of this e-mail, that would 3 be -- I would believe that would be accurate.</p> <p>4 Q. So when you're saying our main rival is 5 done, your mean -- you mean that Affliction was no 6 longer an MMA promotion, it's just a clothing 7 company, right?</p> <p>8 A. I think that I would have -- I would 9 characterize it as Affliction elected to stop 10 promoting the sport of mixed martial arts and they 11 negotiated whatever they may have negotiated with 12 either Dana White or Lorenza Fertitta to engender 13 themselves back into being a brand that they were 14 comfortable with sponsoring within the UFC 15 ecosystem.</p> <p>16 Q. And this -- you viewed this as great news 17 for the UFC, right? That Mulvey says to you, Wow, 18 short-term, long-term ramifications."</p> <p>19 And you say, "Any ramifications are good 20 for us. We're going to get most of their fighters. 21 They only have 22 fighters."</p> <p>22 Do you see that?</p> <p>23 A. I do.</p> <p>24 Q. So as a result of Dana and Lorenzo 25 negotiating with Affliction to have Affliction drop</p>	<p style="text-align: right;">449</p> <p>1 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>4 Q. And you say a little bit further down, 5 "Things are looking good. This was a big day for 6 the UFC."</p> <p>7 Do you see that?</p> <p>8 A. I do see that.</p> <p>9 Q. And it was a big day for the UFC because 10 their main rival was out of the UFC promotion 11 business and the UFC could get most of their 12 fighters, correct?</p> <p>13 A. Honestly, I don't understand -- I couldn't 14 possibly understand or tell you what my motivation 15 was for opining that that particular day which was 16 July 25th of 2009, eight years ago, why that was 17 big today or what my -- what -- you know, 18 conclusions or what, you know, information went into 19 my making that, you know, giving that opinion.</p> <p>20 But, you know, certainly the fact that 21 the UFC was able to negotiate a, you know, an asset 22 purchase agreement for some of the assets of 23 Affliction's MMA business, apparently at that time I 24 thought that that was, in my opinion, good -- good 25 for the overall health of the company. Because it</p>

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1		STATE OF _____ )	
2		) :ss	
3		COUNTY OF _____ )	
4			
5			
6			
7		I, MICHAEL P. MERSCH, the witness	
8		herein, having read the foregoing	
9		testimony of the pages of this deposition,	
10		do hereby certify it to be a true and	
11		correct transcript, subject to the	
12		corrections, if any, shown on the attached	
13		page.	
14			
15			
16		MICHAEL P. MERSCH	
17			
18			
19			
20		Sworn and subscribed to before	
21		me, this      day of	
22		, 2017.	
23			
24			
25		Notary Public	
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1		REPORTER'S DECLARATION	
2		STATE OF NEVADA )	
3		) ss	
4		COUNTY OF CLARK )	
5			
6		I, Jualitta Stewart, a duly commissioned	
7		Notary Public, Clark County, State of Nevada, do	
8		hereby certify:	
9		That I reported the taking of the	
10		deposition of the witness, MICHAEL P. MERSCH,	
11		commencing on Friday, July 14, 2017, at the hour of	
12		4:43 p.m.	
13		That prior to being examined, the witness	
14		was by me duly sworn to testify to the truth, the	
15		whole truth, and nothing but the truth.	
16		That I thereafter transcribed my said	
17		shorthand notes into typewriting and that the	
18		typewritten transcript of said deposition is a	
19		complete, true, and accurate transcription of said	
20		shorthand notes taken down at said time.	
21		I further certify that I am not a	
22		relative or employee of any party involved in said	
23		action, nor a person financially interested in the	
24		action.	
25		IN WITNESS WHEREOF, I have hereunto set	
		my hand and affixed my official seal in my office in	

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